

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

11 CIV. 0596

Rodney McNeil

(In the space above enter the full name(s) of the plaintiff(s).)

## COMPLAINT

under the  
Civil Rights Act, 42 U.S.C. § 1983Defendant No. <sup>v.</sup> 6 Robert T. JohnsonDefendant No. 1 Millie GonzalezDefendant No. 2 John CabanDefendant No. 3 Inman CrosbyDefendant No. 4 John Doe 1 - Police officer  
N.Y.P.D.Defendant No. 5 John Doe 2 - Police officer  
N.Y.P.D. "SEE Attached"Jury Trial: Yes ☒ No ☐  
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. No addresses should be included here.)

## I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Rodney McNeil  
 ID # 08-A-0713  
 Current Institution SouthPort Correctional Facility  
 Address SouthPort Correctional Facility  
P.O. Box 2000 Pine City, New York 14871-2000

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_X  
RODNEY MCNEIL

V.

MILLIE GONZALES  
JOHN CABAN  
INMAN CROSBY  
JOHN DOE 1  
JOHN DOE 2  
ROBERT T. JOHNSON  
JUDGE HERRERA  
A.D.A WILLIAM BEESCH  
BRIAN LONG  
GERARD DIMURO  
REUBEN HENRIQUEZ  
CITY OF NEW YORK  
MARCY KAHN  
CHARLES SOLOMON  
Defendants

Complaint  
Civil Action \_\_\_\_\_  
Jury Trial Demanded  
Civil Rights Act  
42 U.S.C. § 1983

\_\_\_\_\_X

Defendant No. 1 Name Millie Gonzalez Shield # \_\_\_\_\_  
 Where Currently Employed Willow Family Shelter  
 Address 190 Willow ave. Bronx N.Y. 10455

Defendant No. 2 Name John Caban Shield # \_\_\_\_\_  
 Where Currently Employed Willow Family Shelter  
 Address 190 Willow Ave. Bronx N.Y. 10455

Defendant No. 3 Name Inman Crosby Shield # \_\_\_\_\_  
 Where Currently Employed Willow Family Shelter  
 Address 190 Willow ave. Bronx N.Y. 10455

Defendant No. 4 Name John Doe 1 Shield # \_\_\_\_\_  
 Where Currently Employed N.Y.P.D.  
 Address \_\_\_\_\_

Defendant No. 5 Name John Doe 2 Shield # \_\_\_\_\_  
 Where Currently Employed N.Y.P.D.  
 Address \_\_\_\_\_

"See Attached"

## II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? 190 Willow Ave.  
Family Residence Shelter
- B. Where in the institution did the events giving rise to your claim(s) occur? Basement  
offices of 190 Willow Family Shelter
- C. What date and approximate time did the events giving rise to your claim(s) occur? September 15, 2005 at about 3:00 PM

Defendant 6 Robert T. Johnson Bronx District Attorney  
Currently Employed at 198 E 161st Bronx N.Y. 10451

Defendant 7 Judge Herrera  
Currently Employed Criminal Court N.Y. County  
100 Centre Street Part AR-1

Defendant 8 A.D.A William Beesch  
Currently Employed at One Hogan Place  
N.Y. County

Defendant 9 Detective Brian Long  
Currently Employed at North Homicide Squad  
25 Pct

Defendant 10 Detective Gerard Dimuro  
Currently Employed 25<sup>th</sup> Pct 119<sup>th</sup> Lexington Ave.

Defendant 11 Detective Henriquez  
Currently Employed 25<sup>th</sup> Pct 119<sup>th</sup> Cor. Lexington Ave.

Defendant 12 City OF NEW YORK

Defendant 13 Charles J. Solomon Judge  
Currently Employed 100 Centre St. Part 82

Defendant 14 Marcy Kahn  
Currently Employed at 100 Centre St. Part 44 Judge

"SEE ATTACHED"

Defendant 6

Robert T. Johnson - District Attorney

Currently Employed at 198 E. 161<sup>st</sup> Bronx N.Y.  
District Attorney's office 10451

Each Defendant from 1 thru 6 are  
being sued in their individual and Official  
Capacity

Individual Capacity

1. Millie Gonzales - \$250,000.00
2. John Caban - \$250,000.00
3. Inman Crosby - \$250,000.00
4. John Doe 1 Police Officer \$350,000.00
5. John Doe 2 Police officer \$350,000.00
6. Robert T. Johnson \$1,000,000.00
7. Judge Herrera \$5,000,000.00
8. A.D.A. William Beesch \$5,000,000.00
9. Detective Brian Long \$3,000,000.00
10. Gerard Dimuro Detective \$3,000,000.00
11. Detective Henriquez \$5,000,000.00
12. City of New York \$20,000,000.00

13. Marcy Kahn 10,000,000.00
14. Charles J. Solomon 10,000,000.00

D. Facts: ON September 15, 2005 there was a heated argument between my self and Millie Gonzalez the housing Specialist at the family shelter because after 22 months of being housed in a family shelter with my children I went and found my own apartment because the shelter Van runs were only showing me one bedroom apartments Cont...  
Millie Gonzalez made a false report to the Police that was instigated by John Caban the head of Security a retired Police officer. I left Ms. Gonzalez's office peacefully and told her that I was going to report what she had done to the director Cont...  
I told Inman Crosby what really happened and he tried to cover up the truth by erasing the video tapes of what really happened which was nothing at all that warranted my arrest. ON Pg. 7  
The District Attorney engaged in Malicious and Cont...  
IN regards to Ms. Gonzalez's office and those accusations nobody but the lens of the camera everything else is documented on the court file. ON Pg. 11

### III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

My injuries are emotional distress Severe depression I take medication 300 miligrams of Wellbutrin Anti depressant for almost 3 years. And the separation of my family. Mental and emotional distress due to the loss of my freedom and a loss of my family

### IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☐ No ☒

What Happened to You? Continued.... from Page 4  
 Which I refused to accept because they did not accomodate my family Composition my daughter was about to turn 13 years old and needed her own room. My Son had just gone away to college in August, so I knew that he would be coming home for Spring break and holidays So a one bedroom would have been inappropriate for my family, especially since I was trying to relocate from a two bedroom apartment due to the fact that I already had a two bedroom apartment with furniture I would definitely need to move back into a two bedroom apt. because my furniture would not fit into a one bedroom and it just wouldn't work at the time I had a 12 year old going on Thirteen and an 18 year old Son going on 19 who had went off to college but would still be a Part of the household. The reason I had to leave my Two bedroom apartment is because I was jumped and beaten up very badly with brass Knuckles and Robbed by People in the Dangerous Lincoln Housing Projects. I received Severe injuries to my face as a result of getting beat in the face with Steel Knuckles four fractures to the left eye socket requiring Surgery and a broken nose. My eye was Swollen shut and bleeding actively.



I moved to the family shelter with my two children for safety precautions for my children as well as my self. I reported the incident to housing and the Police and still I was denied an emergency transfer.

Who did what? Cont... from Page 4

What Ms. Gonzalez had done was she took the information from me and Called the Broker of the Apartment that I found on my own. They refused to show me two bedroom apartments and I refused to accept a One bedroom. So I did my own search and was immediately successful I found a two family house the apartment that was showed to me and my daughter was absolutely Stunning it was gorgeous the rooms were humongous it was a dream come true. the Place had a backyard a cellar, the stove was state of the art I had never seen a stove that cooks without a flame except for an electric stove. This stove had a flat surface It was an apartment both me and my twelve year old liked very much. And Millie Gonzalez Called the broker and negotiated for others to see the Place and that's what the argument was about. She Cut my throat and had me falsely arrested at the behest of John Caban the head of Security. She said that I attacked her with a cane totally false. I had a cane because my knee was swollen a Basketball injury. She forgot about all the cameras in the shelter when she reported that I attacked her with the cane. However I did not forget, so I

asked my Court appointed attorney to SubPoena the video tapes of the Basement offices. She was told that the tapes were not Preserved. While There are no Cameras in the offices However, Ms. Gonzalez claimed that I Chased her out of her office Wielding a Walking Cane.

There are Cameras in the hallway and it would have been on tape if it happened. What happened in the hallway was that we both were waiting outside the door to the director's office for someone to open the door. We were not even talking to each other at this point. No one opened the door so I left her standing there. That's why I asked my attorney to SubPoena the tape. Because it would have Proven that she lied about everything and had me falsely arrested.

I went outside for a walk and I saw the Police driving Past they stopped Sat in the car and asked me what's wrong? I told them that I'm Upset because I may have lost an apartment that I had just found. They said just be cool and go for a walk, That's when John Caban walked up the block a block away from the shelter and spoke to the Police, they told me to stand back on the sidewalk so they could talk in Private. John Caban Convinced them to arrest me. There was no Probable Cause for my

arrest, and no crime was committed. It is my belief that Millie Gonzalez did not call the Police. She had no reason to. She was wrong for undermining my apartment search efforts. It led to an argument and I left. No physical. The only threat was that I would report what she did to the director. I did nothing warranting an arrest and I had every right to be angry. John Caban instigated my arrest by speaking to Police in private whatever he said to them led to my arrest because if Ms. Gonzalez had called them they would have asked me what happened after they put me in handcuffs. They were leaving when John Caban stopped them. He later got Millie Gonzalez to go along with his scheme to get rid of me, out of the shelter. I was already trying to leave that's why I found an apartment, but he wanted me to leave in handcuffs not peacefully move out into an apartment. And that's what happened. I was taken away in handcuffs. No probable cause was established. I was arrested as a favor to a retired cop. Ms. Gonzalez acted in concert with John Caban to effectuate a false arrest. Inman Crosby took part in the conspiracy. Even though I called a family member to pick up my daughter

They still called Child Protective Services  
they maliciously tried to have my daughter  
taken away I raised her from Newborn  
bot she was Picked Up by a family member.

Was anyone else involved? cont., from Pg **4**

Vindictive Prosecution, in that even though the offer was thirty days jail time for attempted assault, harassment a B misdemeanor. This case was docketed on September 15, 2005 and on January 27, 2007 I was held on a 1500 dollar bail until February 8, 2008 when the case was dismissed. The District Attorney only had 60 days to answer ready for trial on a B misdemeanor where the jail time offered is thirty days. This was a Malicious + Vindictive Prosecution. Ms. Millie Gonzalez was willing to make a false Police report at the behest of the head of Security John Caban ex Police officer. but was not willing to come to court and testify under cross examination. A Material Witness order should have been issued. But no one believed Ms. Gonzalez's story it was an unbelievable story. There is only one reason that the video tape was destroyed and that was to conceal the truth. These actions by the shelter caused me to be placed in harm's way because I was kicked out of the shelter both me and my daughter a 12 year old. I ran out of places to stay and ended up going back to

The Projects that I left to get away from just to have a Place to rest. I'm in Prison due to the second altercation with the People Who injured me the first time I testified at my trial that these same assailants robbed me again out of a gold chain this time and When I tried to fight back for the chain a gun was pulled out and a struggle over the gun caused one of my assailants to be shot several times but for the shelter kicking me out along with my daughter this would not have happened they put me and my daughter in harm's way. I couldn't bring up the fact that I was kicked out of the shelter due to false charges because the Manhattan ADA was in cahoots with the Bronx D.A.'s office to keep the misdemeanor case open as long as possible so that I couldn't talk about why I really went back to the Neighborhood because it would destroy his revenge theory it was completely false I didn't want to go back to the apartment I had no where else to go. Because one of my assailants was shot during a struggle over a gun I was tried and convicted on a jurisdictionally defective indictment.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Rodney McNeil  
Plaintiff

V.

1. Millie Gonzales
  2. John Caban
  3. Inman Crosby
  4. John Doe 1
  5. John Doe 2
  6. Robert T. Johnson
  7. Judge Herrera
  8. A.D.A William Beesch
  9. Detective Brian Long
  10. Gerard Dimuro Detective
  11. Detective Henriquez
  12. City of New York
- Defendants

Complaint  
Under the  
Civil rights Act,  
42 U.S.C. § 1983  
Jury Trial Demanded

This action arises under and is brought Pursuant to  
42 U.S.C. § 1983 to remedy the deprivation, under color  
of State law, of rights guaranteed by the fourth fifth  
sixth and fourteenth Amendments to the United States  
Constitution. This Court has Jurisdiction over this  
action Pursuant to 28 U.S.C. § 1331 and § 1343  
in its entirety.



Plaintiff's claims for injunctive relief are authorized by rule 65 of the Federal Rules of Civil Procedure. This cause of action arose in the Southern District of New York. Therefore, venue is proper under 28 U.S.C. Section 1391(b). Plaintiff has filed no other lawsuits dealing with the same facts involved in this action or otherwise relating to his imprisonment.

### Statement of Claim

At all relevant times herein, defendants were "Persons" for purposes of 42 U.S.C. Section 1983 and acted under color of law to deprive Plaintiff of his Constitutional rights, as set forth more fully below.

### Statement of Facts

What I will endeavor to do is relay the second part of my Complaint as it continues from Page 4 including corresponding pages of Continuation. These facts consist of a two part story. The first part has been told and here is the final part. After the shots had been fired on 126<sup>th</sup> Lexington Ave. over the struggle over the gun, the Plaintiff after being kicked out of the shelter stayed at various locations never again gaining stability.

## Statement of facts Continued

Plaintiff realizing that the Neighborhood just wasn't safe and after running out of Places to stay the Plaintiff left New York and Went to Boston Mass. to stay with family. Plaintiff went to Boston on April 23, 2006 and Stayed with Aunt and Uncle in a Privately owned 3 family home own by my family. Through the use of a Trap and trace device called also Pen register the 25 pcts. Det. Brian Long, Gerard Dimuro, Came to Boston and Solicited the assistance of the Boston Police Department to arrest the Plaintiff. The Boston Police along with Det. Brian Long, Gerard Dimuro and a Boston Swat team Came to the family home to affect an arrest The New York Detectives and the Boston Police Stormed the home forced their way in and arrested the Plaintiff in the Basement. The Detectives came all the way to Boston outside of their New York Jurisdiction without an arrest Warrant

Or a Search Warrant, and Searched the family home and ordered the Plaintiff to come out of the Basement hands in the air. And Plaintiff was Placed under arrest, Inside Plaintiff's Cousin's home who lived on the first floor. Plaintiff lived on the Second floor with his aunt and Uncle. The New York Detectives and the Boston Police officers Searched my aunt's home a three family house with three separate apartments they searched the first floor and made the occupant's leave and they searched the second floor and MADE everybody leave including my 85 year old Grand mother who was bedridden. They were even answering the telephone giving out information on the Phone about what was happening; to church members. The New York detectives were out of their jurisdiction they had no Arrest Warrant or Search Warrant. So after my arrest I asked to see an arrest Warrant they didn't have one No Search Warrant in Violation of Steagald V. United States Searching a third Party home without a Search Warrant Violating Payton V. New York Arresting the Plaintiff at home without an Arrest Warrant.

The Police Came to the home at 11:56 AM as you will see in the exhibits and Police reports. Plaintiff was arrested at 12:15 the New York detectives acquired an arrest Warrant at 2:45 PM after the Plaintiff's arrest See Exhibit "B" New York Arrest issued at 2:45 PM by Judge Herrera at 100 Centre Street Part AR-1 If you examine Exhibit "C" you will find that the A.D.A. William Beesch in New York County Concedes that there was never a felony Complaint issued in this case in opposition to defendant's Motion. Which means that the Local Criminal Court issued an arrest Warrant in the absence of all jurisdiction. The accusatory instrument the felony Complaint is what gives the Court jurisdiction to issue arrest Warrants see CPL 1.20 subdivision (8) The Plaintiff was not charged with a crime at the time of his arrest. The Local Criminal Court judge lied in the arrest Warrant. The judge declared in the Warrant that an accusatory instrument

was filed in his Court and that it was sufficient on  
 its face. Nothing could be further from the truth.  
 It is Uncontroverted that there was never a felony  
 Complaint issued in this case which means when  
 I was Arrested on May 4, 2006 No Criminal  
 action had Commenced. See CPL 1.20 subd.(16),  
 C. P. L 1.20 Subd.(17) The Court had no  
 jurisdiction to issue that arrest warrant  
 absent a felony Complaint. See C.P.L 1.20  
 subdivision (25) And I was Arrested in  
 Violation of U.S.C.A. Const., 4, 14<sup>th</sup> Amend.  
 Due Process Violation. My Federal Constitutional  
 Rights were Violated, by the Specious acts of  
 A.D.A William Beesch and Judge Herrera.  
 Boston Police had no jurisdiction to  
 to detain me. I had no Criminal Charges  
 in Boston giving the Courts of Boston  
 Jurisdiction over my Person See Title 18  
 U.S.C.A Section 241 and 242 4, 14<sup>th</sup> Amend.  
 My rights were Violated under Color of State  
 law.

My Right to Challenge the legality of my detention was violated. Defense Counsel Denise Regan refused to file a Writ of habeas Corpus to Challenge extradition as a result I spent 4 months in Boston County Jail illegally and in violation of the law and my rights. My Constitutional right to due Process was violated. The Boston Judge ordered the district Attorney of Boston's Courts to have Somebody there in court on the next Court date this went on for four months Nobody showed up until the day of my illegal extradition. Under federal law, if a Person is arrested Pursuant to a Governor's Warrant and no agent appears from the demanding state to take Custody of the fugitive within thirty days from the time of arrest the Court must order discharge from Custody. 18 U.S.C. § 3182. But I WAS NOT released. Even though there was a jurisdictional defect in the Proceedings. Absent an accusatory instrument I could not be considered a fugitive. United States Constitution IV § 2 cl. 2.

Federal laws were Violated. Extradition Without the right to challenge Extradition I filed no Papers or Signed No Waivers to be extradited See Exhibit ("Z1") State habeas Corpus Marked as Plaintiff's exhibit Zee ONE. The A.D.A. engaged in Malicious Prosecution as well as Vindictive Prosecution While I WAS being illegally detained in Boston County Jail on a fictitious arrest Warrant from MAY 4, 2006 to 9-1-2006 The MANHATTAN A.D.A. Was in New York Presenting the Charges in the fictitious Arrest Warrant to a MANHATTAN Grand Jury ON MAY 11, 2006 in Violation of my Right to Counsel. U.S.C.A. Const., Amend. 6 Once the Arrest Warrant WAS issued my right to Counsel indelibly attached. *Evitts v. Lucey*, *Gideon v. Wainwright*

The Charges were Presented to the grand Jury in violation of CPL 190.55 2(a) and the grand Jury indictment is Jurisdictionally defective, The Plaintiff Contends that the trial Court lacked Jurisdiction over the Subject Matter as well as Personam Jurisdiction.

Plaintiff Contends further that his imprisonment is illegal as a matter of law. The Court Never acquired Jurisdiction Neither the local Criminal Court Nor the Supreme Court. See CPL 180.70 § 1 CPL 120.20 (1) CPL 120.30 (1) CPL 110.10.<sup>CPL</sup> 1.20 subd(25)

The Bronx District Attorney Was in Collusion with the MANHATTAN A.D.A to Keep the Misdemeanor Case open as long as Possible so that I wouldn't be able to testify Why I really went back to the Neighborhood because it would destroy the Revenge theory of ADA Beesch.